

The CURE

Contract User's Resource for Excellence

The "CURE" is a quarterly newsletter of the State Controller's Office

Volume 9, Issue 3

August 2003

News From The SCO A State Controller's Office Update

CCIT MEETING

The August CCIT (Colorado Contract Improvement Team) meeting will be held on Wednesday, August 20th from 9:00 a.m. - 12:00 in Building 100 at Camp George West. Camp George West is located just East of Golden on Old Golden Road. The address is 15055 So. Golden Road. If you have questions about the meeting, please call a member of the Central Contract Unit. A map is located at www.sco.state.co.us/cure.cure.htm.

An agenda is included on page 10.

**READ What's Inside
this Issue — A New
Emergency Fiscal
Rule**

E-MAIL ADDRESS CHANGES

To make sure you do not miss an issue of the CURE or other important state contract information be sure that you keep your e-mail address current by sending changes to Kevin in the SCO CCU at:
kevin.cruise@state.co.us

Central Approvers Names and Numbers

NAME	PHONE #	FAX #
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Department of Personnel & Administration (DPA)

State Controller's Office (SCO)

Central Contract Unit:	Phone Number	Fax Number
Phil Holtmann	303-866-3809	303-866-4233
Yvonne Anderson	303-866-2862	303-866-4233

Routing, Distribution and E-mail Updates:

Kevin Cruise	303-866-2127	303-866-3569
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Statutory Violations:

John Ivy	303-866-3765	303-866-3569
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Human Resource Services (DPA/HRS)

Personal Services Review Program:

Joi Simpson	303-866-5496	303-866-2458
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State Buildings and Real Estate Programs

Carol Lieber (SBREP)	303-866-3158	303-894-7478
Donna Barr (REP)	303-866-4564	303-866-2201
Clark Bolser (REP)	303-866-4759	303-866-2201

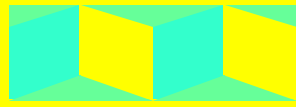
State Purchasing (SPO)

Kay Kishline	303-866-6100	303-894-7440
Monica Rahman	303-866-6155	303-894-7440

Office of the Attorney General (AGO)

Robert Bowers	303-866-5027	303-866-4139
Bea Pagette	303-866-5227	303-866-4139
Tracy Kinsella (CDOT Attorney)	303-866-5052	

NOTE: You may e-mail any of the above by using the following format: **firstname.lastname@state.co.us**



A New Emergency Fiscal Rule - by Phil Holtmann & Tracy Kinsella (AGO)

An update to the current Fiscal Rules was effective July 1, 2003, and now includes a new emergency rule, which allows state agencies to address certain immediate needs without the requirement of a commitment voucher. The new rule is in Fiscal Rule 2-2 (page three) and the language is repeated below. Please review the rule and put procedures in place for your agency to ensure that there is compliance with all of the required elements of the rule.

Included with this article is a copy of the procedures that have already been developed by the Department of Transportation for their construction projects that fall under this rule. The SCO would like to thank the Department of Transportation for taking the time to address this situation so quickly and for letting us share this outstanding example of a complete policy and procedure with all of our readers.

Emergencies

For purposes of this rule, an “emergency” is a situation that creates an immediate threat to public health, welfare, or safety, the functioning of state government, or preservation or protection of property. There is insufficient time to obtain a written waiver of the requirements for issuance of a commitment voucher pursuant to this fiscal rule before acquiring required goods or services to respond to the emergency.

In an emergency, the head of an agency or institution, or his/her designee, may acquire goods and services necessary to respond to an emergency without execution of a state contract or purchase order, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. Disbursement may be made upon receipt of invoices, receipts, or other statements describing goods or services being purchased and the amount to be paid. Commitment vouchers shall be executed as soon as possible to define future performance obligations where required by the fiscal rules. As soon as practicable, and in no event later than the end of the next business day, a written report of the circumstances and the nature and value of the commitments shall be made to the chief financial officer of the agency and institution and to the State Controller.

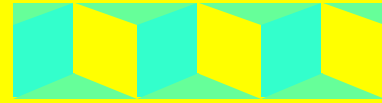
EMERGENCY CONSTRUCTION PROJECTS

1. Definition of Emergency Conditions

Fiscal Rule 2-2 of the State of Colorado Fiscal Rules defines an emergency as follows:

An emergency is a situation that creates an immediate threat to public health, welfare, or safety, the functioning of state government, or preservation or protection of property. There is insufficient time to obtain a written waiver of the requirements for issuance of a commitment voucher pursuant to this fiscal rule before requiring goods or services to respond to the emergency.

Emergency Fiscal Rule - Article continuation



If a situation does not pose an immediate threat to the public health, welfare, or safety, the functioning of state government, or preservation or protection of property, it is not an emergency and these procedures cannot be used.

2. Scope of Emergency Procedures

In an emergency, only those goods and/or services that are necessary to respond to the emergency may be acquired without the execution of a state contract, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. (Fiscal Rule 2-2)

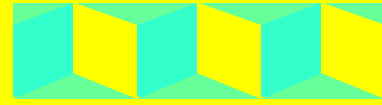
3. Procedure for Emergencies

Only CDOT's Executive Director, the Chief Engineer or their authorized delegate may declare an emergency pursuant to Fiscal Rule 2-2. Approval must be obtained from the Executive Director, the Chief Engineer or authorized delegate prior to procuring a contractor and commencing work.

The procedures for emergency construction projects are as follows:

1. A written request must be submitted to the Executive Director, the Chief Engineer or authorized delegate through an Area Engineer which includes the following:
 - a. A justification that an emergency exists in accordance with Fiscal Rule 2-2. The explanation must be complete enough to describe the problem and how it qualifies as an emergency.
 - b. An explanation of why the normal procurement procedures will not permit procurement of a contractor quickly enough to address the emergency. (The request should state the time that will be required to obtain a contractor using the normal procurement process and why the emergency requires a quicker response); and
 - c. The scope of the emergency work, the limits of the project and the estimated cost.
2. The Area Engineer will obtain signature approval from the Executive Director, the Chief Engineer or delegate and will return a signed copy to the Region. If warranted by the nature of the emergency, verbal approval may be requested. However, the written request must be submitted no later than the end of the next business day.
3. A written report of the circumstances and the nature and value of the commitments shall be made to CDOT's chief financial officer and to the Office of the State Controller

Emergency Fiscal Rule - Article continuation



no later than the end of the next business day. Such report may be made via e-mail.

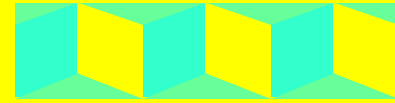
4. Contractor Selection for Emergency Work

Emergency work which is outside the scope or beyond the termini of an existing contract cannot be added to the contract with a CMO. If the work was not contemplated by the original solicitation for that contractor, then it is beyond the scope and the price agreed to in that contract. Issuing a CMO in such a situation may violate CDOT's procedures and State Statutes applicable to government contract bidding.

Commensurate with the circumstances of the emergency, the Region will use the most competitive process possible to select a contractor. The following procedures will be used:

1. Preliminary Investigation: The following items must be determined:
 - a. the scope and nature of the emergency work;
 - b. state date and time frame for completion;
 - c. pay items and quantities; and
 - d. method of measurement and basis of payment
2. Solicitation: As circumstances allow, bids should be solicited by phone or fax from at least three qualified contractors that can respond quickly. It is acceptable to solicit a bid from a contractor already working in the area. If unable to solicit three bids, the reason must be documented (e.g., justifiable time constraints, limited interest, lack of qualification).
3. Force Account Work: If a force account is necessary, the work should be paid for in accordance with subsection 109.04 of the *Standard Specifications*. If doing so is not reasonable, then documentation must be provided explaining the rationale for exceeding labor and equipment rental rates. For example, the emergency may justify non-stop work activity for a short duration, which generally warrants higher rates. Contact the Engineering Estimates and Market Analysis Unit of the Contract and Market Analysis Branch, as needed, for assistance in justifying rates.
4. Work Authorization: A written authorization, Form 105 – Speed Memo, to proceed with the work, must be sent to the Contractor performing the emergency work prior to the commencement of work. The Contractor must sign and return the authorization before proceeding. The written authorization must include the following:
 - a. scope of work and project limits,
 - b. the required time to start work,
 - c. expected duration of the work,
 - d. estimated quantities,

Emergency Fiscal Rule - Article continuation



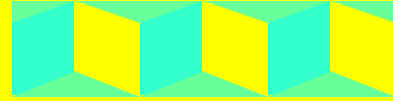
- e. method of measurement,
- f. basis of payment, and
- g. estimated total cost of the work.

If payment will be by force account, include either the agreed rates for labor and equipment or the provisions of subsection 109.04, whichever is applicable.

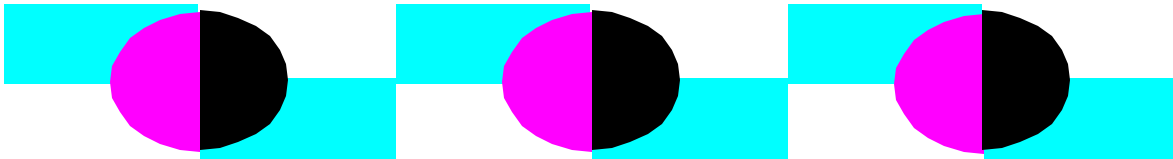
Payment Prior to Contract Signing: Disbursement may be made upon receipt of invoices, receipts or other statements describing the goods or services utilized and the amount to be paid. However, a Contract must be executed as soon as possible in conformance with the sections below to define future performance obligations.

6. Submittal of Contract Information: By the end of the next business day following selection of a Contractor, the following information must be submitted to the Agreements Unit of the Contracts and Market Analysis Branch for the preparation and execution of the emergency contract:
 - a. Description and Justification: Submit a description of the nature of the emergency and justification for the emergency procurement.
 - b. Procurement Documentation: Submit all required procurement documentation and a description of the method used to select the Contractor, including any reasons for deviating from Department policy.
 - c. Basis of Payment:
 - (1) Agreed Unit Price or Lump Sum. Submit the agreed prices, units and estimated quantities, including justification for using the agreed unit price or lump sum basis.
 - (2) Force Account. When force account is used, submit justification for payment in accordance with subsection 109.04 of the *Standard Specifications* and the agreed hourly rates for labor and equipment. If the hourly rates exceed those that would be paid in accordance with subsection 109.04, also submit justification for exceeding those rates.
 - d. Emergency Approval. Submit the signature-approval of the Executive Director, the Chief Engineer or authorized delegate to procure a contractor to perform the emergency work.

Emergency Fiscal Rule - Article continuation



7. Preparation and Execution of Contract. The Agreements Unit of the Contracts and Market Analysis Branch will prepare and execute the Contract as soon as practical after the emergency occurrence. The Contract will be dated retroactively on the date of the written authorization to proceed, and the Agreements Unit will provide written justification of this retroactivity to the State Controller.
8. Administration of the Emergency Contract: The appropriate CDOT region will administer the Contract for the emergency work in accordance with CDOT policies and procedures.
9. The Region shall also make all necessary entries into the Trns*port and ProMIS software systems for the emergency project by the end of the next business day.



**On the World Wide Web at :
www.sco.state.co.us/**

**CONTRACT PROCEDURES AND MANAGEMENT
MANUAL
contract/contractprocedures.htm**

**CURE
cure/cure.htm**

**PERSONAL SERVICES REVIEW PROGRAM
AND RELATED FORMS**

www.state.co.us/hrs/contracts/index.htm

PERSONAL SERVICES UPDATE

by Joi Simpson,
Personal Services Contracts Specialist

Pilot Waiver Process

In an effort to evaluate the effectiveness of expanding the personal services waiver process and minimize the review of contracts that have minimal impact on the state's personnel system, the Division of Human Resources (DHR) is implementing a pilot program that will broaden the current personal services program waiver process. The pilot program is scheduled to begin October 1, 2003 and end October 1, 2004. At that time, DHR will evaluate the effectiveness of the program and make a decision as to if the process creates further efficiencies in the personal services re-view process.

DHR currently utilizes personal services program waivers for specific services, e.g., consulting services, IT services, and maintenance contracts. This pilot program will base the waiver process on statutory criteria instead of specified services, creating a statewide blanket waiver that eliminates the need for individual department program waivers. Specifically, any contracts that can be approved under CRS 24-50-504 (2)(b) through (2)(h) and 24-50-504 (3), contracts not implicating the state personnel system, will be covered under the broader waiver in the pilot. The following conditions will apply to all departments participating in this pilot program.

- § Departments must have an HR professional(s) certified in Personal Services Contracts module of the Personnel Certificate Program to conduct personal services reviews.
- § DHR will continue to review any personal services contract that falls under CRS 24-50-504 (2)(a) and 24-50-503, contracts that implicate the state personnel system. Services falling under these categories will still be reviewed and certified by department HR offices, then submitted to DHR for final review and approval.
- § Review of contracts that fall under CRS 24-50-504 (2)(b) through (2)(h) and 24-50-504 (3) is waived by DHR.
- § Department HR professionals must review, certify, and sign appropriate documentation for any contract. DHR will provide the forms and sample pre-approval letters.
- § All services currently performed by state programs, such as printing, training, data entry, etc., must have pre-approval from these programs before seeking outside contractors to perform the service. HR professionals must ensure that these pre-approvals are obtained before approving the request.

We hope this process will accomplish the following efficiencies.



Personal Services Article Continuation

1. The number of personal services contracts and purchases orders reviewed by DHR will be limited to those contracts approvable under CRS 24-50-504 (2) (a) and CRS 24-50-503, those that impact the state personnel system, which will eliminate seemingly duplicative review by DHR and allow staff to consult and monitor personal services activity.
2. Individual agency program waivers submitted to DHR will no longer be necessary for those participating in the pilot. The statewide blanket waiver process will replace all current agency program waivers and the statewide blanket waiver will be revisited and renewed on an annual basis. This will eliminate numerous staff hours required to establish and re-review these waivers both at the department and DHR levels.
3. This process will eliminate four days review time from the central review process for contracts that meet the conditions of the blanket waiver.
4. This process can be implemented within a short time frame and does not require further rulemaking.

Under this pilot, HR offices will have some latitude to establish internal waivers for specific types of contracts, i.e., maintenance or services agreements, contract modifications, temporary services for any type of leave, and purchased services.

To participate in the pilot, a department head must submit a written request to Jeff Schutt, Division Director of DHR. The request should identify the processes in place to ensure compliance with conditions of the waiver and the pilot program. All departments are encouraged to participate in this pilot process.

TIME LINE

- - Send draft waiver to agencies for review and collect comments. (September 12, 2003)
- - Prepare agencies through communication, e.g., CATF, PAC, CCIT, HR Network, emails and publications, and PCP Personal Services Contracts Training. (Begin August 2003)
- - Department Heads submit letter to DHR to participate. (September 19, 2003)
- - **Full pilot implementation** (October 1, 2003)
- - Incorporate into audits and conduct customer survey to evaluate effectiveness. (August 2004)
- - Pilot ends, determine pilot effectiveness, and how to proceed (October 1, 2004)

For further information on this pilot program, contact Joi at Joi.Simpson@state.co.us or 303.866.5496.



IMPORTANT REMINDERS...

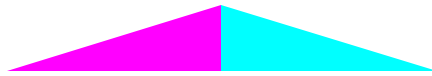
State Controller Policy Updates (effective 2/10/2003): The State Controller has updated all the policies related to State Contracting. The policies are: Advance Payments to Vendors, State Contract Modifications, Contract Dating, Executing State Contracts with a Fiscal Year Value of \$50,000 or Less, and Mixed Procurements.

The policies are conveniently located on the SCO website. All contract personnel are encouraged to review the policies and the requirements. If you need assistance or have questions, please feel free to call Phil Holtmann or Yvonne Anderson.

AN IMPORTANT TRAINING NOTICE:

The Contract Management and Contract Writing courses sponsored by the State's Training Academy are currently **ON HOLD**. For more information, please contact the new Training Coordinator, Susana Villescas at (303) 866-4253.

REAL ESTATE FORMS NOTE: Don't forget that the Lease Extension Agreement form formerly used to extend the term of a Lease Agreement for state tenants **is no longer being used**. As of July 1, 2002, agencies and institutions should be using the Amendment to Lease form for all lease amendments, including extension of the lease term. If you have any questions about this policy change, call Donna Barr, Real Estate Asset Manager



CCIT (Colorado Contract Improvement Team) Meeting

Wednesday, August 20, 2003

Camp George West – Golden, Colorado – Building 100

Agenda

9:00 — 9:15	Welcome	Phil Holtmann, SCO
9:15— 10:30	Personal Services Update	Joi Simpson, DPA/HRS Don Fowler, DPA/HRS
10:30—10:45	B - - - R- - -E- - -A- - - K	
10:45—11:15	Legal Issues	Robert Bowers, AGO
11:15—12:00	Update from the SCO Questions & Answers	Phil Holtmann, SCO

